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SERVICE DATE – NOVEMBER 5, 2004

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

STB DOCKET NO. AB-876X

**R.J. Corman Equipment Company, LLC–Abandonment Exemption–in
Johnson, Magoffin, and Breathitt Counties, KY**

STB DOCKET NO. AB-875X

**R.J. Corman Railroad Company/Bardstown Line–Discontinuance Exemption–in
Johnson, Magoffin, and Breathitt Counties, KY**

BACKGROUND

In this proceeding, R.J. Corman Railroad Company/Bardstown Line (RJCR) and R.J. Corman Equipment Company (RJCE) filed a petition for exemption under 49 CFR 1152 seeking exemption from the requirements of 49 U.S.C. 10903 for RJCE to abandon and RJCR to discontinue service over a 36.08-mile line of railroad known as the Dawkins Line. The Dawkins Line extends from Milepost 0.05 at Dawkins to Milepost 36.13 near Evanston, and is located in Johnson, Magoffin, and Breathitt Counties, Kentucky. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, applicants will be able to salvage track, ties, and other railroad appurtenances and dispose of the right-of-way.

DESCRIPTION OF THE LINE

According RJCE and RJCR (together Corman), the northern portion of the Dawkins Line was constructed by the Big Sandy & Kentucky River Railway Company (Big Sandy) in 1913. The middle segment of the line was constructed by Big Sandy between 1919 and 1920. The Chesapeake & Ohio Railway Company (C&O) acquired control of Big Sandy in 1930, and absorbed it in 1933. Subsequently, the Dawkins line was extended to its full length, and in 1987, C&O became CSX Transportation (CSXT). RJCE acquired the Dawkins line in early 2002, and leased the line to its affiliate RJCR for operation.

The Dawkins Line is a single-track, stub-ended line that traverses a rural and mountainous area of eastern Kentucky. The line begins at Milepost 0.05, near a connection with a CSXT mainline at Paintsville, and extends in a generally southwesterly and southeasterly direction to the end of the track at

Milepost 36.13, near Evanston.¹ According to Corman, the width of the right-of-way is generally 40 feet, and abandonment of the line would allow for the elimination of 32 public high-way grade crossings, 52 open private crossings, and 14 closed private crossings. In addition, there are 35 bridges, the majority of which are simple, timber trestle design, and several tunnels on the line. According to Corman, the bridges are the only rail structures on the Dawkins Line that may be 50 years old or older.

According to Corman, flooding in the spring of 2004 resulted in washouts along the line, and extensive repairs and rehabilitation would be necessary before rail operations could resume on the Dawkins Line. Corman estimates that returning the line to service would require approximately \$70,000 in emergency washout repairs and \$128,000 in longer term bridge repairs. Upon receiving authority to abandon the line, Corman intends to salvage rail, ties, and track material. However, the tunnels, bridges, railbed, and subgrade will remain in place and undisturbed. Although Corman does not believe that the right-of-way is suitable for alternative public uses, local government parties have expressed an interest in converting a portion of the Dawkins Line into a recreational trail.

ENVIRONMENTAL REVIEW

Corman submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. The applicants served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. SEA has reviewed and investigated the record in this proceeding.

The National Geodetic Survey (NGS) has advised SEA that 14 geodetic station markers have been identified that may be affected by the proposed abandonment.

The proposed abandonment falls under the jurisdiction of both the Louisville District and Huntington District of the United States Army Corps of Engineers (USACE). The Louisville District has determined that the proposed abandonment, as outlined in the Environmental and Historic Reports, would not involve the discharge of dredged or fill material in waters of the United States, including wetlands. Therefore, a USACE permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required for the portion of the line located in United States Postal Service ZIP codes (ZIP codes) 41465 and 41339. The Huntington District had not responded to the reports, at the time that this environmental assessment was prepared. Accordingly, we will recommend that Corman contact the USACE, Huntington District, prior to the commencement of any salvage activities in order to determine whether a USACE permit would be required for the portion of the line located in ZIP codes 41240, 41260, and 41222.

¹ Additional trackage beyond Evanston was abandoned by CSXT in 1990.

The United States Department of Agriculture, Natural Resources Conservation Service (NRCS), determined that no prime, unique, or other important farmlands would be adversely affected by the removal of rail line. Accordingly, no mitigation measures were suggested.

The United States Fish and Wildlife Service Office in Frankfort, Kentucky, stated that no significant adverse impacts to wetlands or federally endangered or threatened species are anticipated from the proposed project. Accordingly, no mitigation measures were suggested.

Because the line either crosses or is adjacent to several perennial and intermittent streams, the Kentucky Department of Natural Resources, Environmental and Public Protection Cabinet (KDNR), determined that the water quality and aquatic habitat of these streams could be adversely affected by the proposed project. KDNR expressed concern regarding erosion and sedimentation control and recommended that Corman follow best management practices in order to prevent nonpoint water pollution. The manual, "Best Management Practices for Construction Activities," contains information on the best management practices that are most appropriate and is available through the Breathitt, Johnson, or Magoffin County Conservation Districts and the Division of Conservation. Based on KDNR's recommendation, we will recommend that Best Management Practices be followed during salvage activities.

Corman does not believe that the proposed abandonment would affect any wildlife sanctuaries, refuges, or National or State parks or forests. Additionally, the United States Department of the Interior, National Park Service (NPS), determined that the proposed project will have no adverse impacts on NPS resources. No mitigation measures were suggested.

There are no known hazardous waste sites or hazardous material spill sites on the subject right-of-way.

According to Corman, local government parties have expressed an interest in converting a portion of the Dawkins Line into a recreational trail. As of the date of this report, no formal request for a public use condition or trails use condition has been submitted. The requirements for public use and trail use are discussed below.

The 1995 Trails Act and the Board's Environmental Review

The Trails Act, 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad right-of-way that otherwise would be abandoned. The Trails Act is intended to preserve railroad rights-of-way for future railroad use.

Under the Trails Act and the Board's implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition (known as a Certificate of Interim

Trails Use (CITU))² to begin the trail use process on a line approved for abandonment if the rail sponsor agrees to railbanking and provides a statement of willingness to assume responsibility for managing the right-of-way, for any legal liability arising out of its use, and for the payment of taxes. If the railroad agrees to negotiate, and no offer of financial assistance to continue rail freight service on the line is received, the Board imposes a NITU, which gives the rail sponsor time to negotiate an agreement with the railroad for interim trail use/railbanking. The Board has no involvement in the negotiations and does not analyze, approve, or set the terms of trail use agreements. The Board is not authorized to regulate activities over the actual trail. In short, the Board's jurisdiction under the Trails Act is ministerial.

The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient Federal control so as to qualify as a major Federal action under NEPA. Only major actions by Federal agencies require environmental review.

Transportation

There is no overhead traffic on the line, and no rail traffic has moved on the line since March 2003. According to Corman, the Dawkins Line was primarily used to service a coal mine at Skyline, near the end of the line at Evanston. After the mine operator Appalachian Fuels LLC (Appalachian Fuels) experienced financial difficulties, rail shipments of coal ceased in early 2003. In recent years, the only other traffic handled on the line included minimal shipments of scrap steel by Ivyton Scrap Metal, Inc.³ Corman states that there are no prospects for new sources of traffic on the Dawkins Line and rail shipments of coal from the mine at Skyline are not likely to resume. Moreover, the former scrap shipper at Ivyton relies on trucks to move its product, and alternative rail service will continue to be available from CSXT at Paintsville.

Rail-to-Truck Diversions

In its application, Corman states that no rail service has been provided on the line for 18 months and, thus, "no current rail traffic will be diverted to other modes as a result" of the proposed abandonment. See Environmental Report at 2-3 and 7. Corman also states that the proposed abandonment would not result in traffic increases that exceed the thresholds specified in 49 CFR 1105.7.

Because there has been no traffic on the Dawkins Line since March 2003, the proposed abandonment would have no immediate impact on the development, use and transportation of energy

² This process allows railroad rights-of-way to be preserved by allowing interim trail use on lines that otherwise would be abandoned. In exempt abandonment procedures, it is a notice of interim trails use (NITU) that is issued rather than a CITU.

³ Corman states that approximately 20 rail cars of scrap steel were shipped annually.

resources or recyclable commodities, or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network. However, the mine at Skyline is not closed, and it is foreseeable that coal operations could resume or that the mine could be acquired in the future.

Accordingly, in an abundance of caution, SEA conducted an analysis of potential diversion of rail traffic to truck traffic based on past shipments. Between 2002, when the line was purchased, and 2003, when traffic stopped on the line, a total of 4,279 carloads moved over the line.⁴ This included 4,240 carloads of coal and 39 carloads of scrap steel. Using a conversion factor of 4 trucks per railcar,⁵ the Section of Environmental Analysis calculated that, if all the rail traffic is diverted to truck traffic, about 17,116 loaded trucks per year or 34,232 total trucks (assuming an empty backhaul) could be added to area roadways. This equates to approximately 140 trucks per day being added to area roadways during a 240 workday year.

Transportation Impacts

As stated above, Corman indicates that alternative modes of transportation are available for commodity transport, including motor carriers and rail service at Paintsville. Highway 80, Highway 7, and Highway 542 are all in the area of the coal mine, and consultation with Jay Hoskins at the Kentucky Transportation Cabinet, Division of Planning (KTC), indicates that these highways are all included in Kentucky's Coal Haul Highway System.⁶ SEA inquired into the possible use of unpaved roads, and Mr. Hoskins indicated that unpaved roads are frequently used by coal trucks in the area. If coal shipments resume, trucks could utilize the area roads and highways to transport the coal to U.S. Highway 460 or U.S. Highway 23.

Although any future transportation of coal would not be expected to be substantially inhibited by the loss of the Dawkins Line because of the availability of other modes of transportation, greater demands would be placed on the existing roadways and transportation system. SEA conservatively estimates that, during a 16 hour workday with two shifts, an additional ten trucks per hour would travel on area roadways. Moreover, Mr. Hoskins at the KTC stated that coal trucks often operate 24 hours on area roads and advised that the transportation network could handle an additional 10 trucks per hour. We believe that additional truck traffic could result in some adverse impacts to local roads,

⁴ In a phone conversation on November 1, 2004, a representative for Corman provided SEA with the number of carloads shipped over the line.

⁵ The conversion factor is an estimate used to calculate the rail to truck conversion of varied commodities.

⁶ A map of the 2003 Kentucky Coal Haul Highway System is available at <http://www.kytc.state.ky.us/planning/maps/coalhaul/maps/statecoalhaul2003.pdf>.

highway infrastructure, and road safety. Based on available information, however, we believe that these impacts would not be significant. SEA has added the KTC to the service list and welcomes any comments that they may have on this issue.

Energy Consumption

If Appalachian Fuels LLC resumed coal shipments to the same level of past shipments, approximately 140 trucks would be required per workday. SEA's analysis indicates that this would result in 2,424,576 vehicle miles annually.⁷ Assuming that trucks use 4 times the amount of fuel that a train would require and that a typical truck averages 6 miles per gallon, the new truck traffic would consume an additional 404,096 gallons of diesel fuel annually, which is less than one percent of the total 913,880,000 million gallons of diesel fuel consumed annually by motor carriers in the State of Kentucky.⁸ Accordingly, the additional fuel consumption would not be significant when compared to statewide annual fuel consumption values.

Air Quality and Noise

Standards

The Board has established air quality and noise level threshold levels set forth at 49 CFR 1105.7 (e)(5)(ii) and (e)(6). These thresholds are guidelines that are considered, along with other supporting information, to determine whether the air pollution and noise levels generated by rail traffic diverted to alternative modes warrant detailed analysis. The applicable threshold level for an attainment area when assessing air pollution is an increase in rail traffic of a least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains per day on any segment of the rail line, or an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment.

Air

The affected area, which includes Johnson, Magoffin, and Breathitt Counties, is in attainment with national ambient air quality standards. See Air Quality Designations and Classifications for the 8-

⁷ Annual vehicle miles were determined by multiplying the number of new trucks per work day (140) with the number of workdays (240) and then multiplying that number with 72.16 miles (the round-trip on the Dawkins line).

⁸ This number is based on information provided by the United States Department of Transportation in "Highway Statistics 2002; Section 1: Motor Fuel," available at <http://www.fhwa.dot.gov/policy/ohim/hs02/mf21.htm>.

Hour Ozone National Ambient Air Quality Standards, 69 Fed. Reg. 23905-6 (Apr. 30, 2004). Abandonment and salvage should not adversely impact local or regional air quality.

Noise

The major noise source would be traffic on local roads. However, the addition of 10 trucks per hour on local roadways would likely be de minimis. Noise disturbances during salvage operations would be short-term.

HISTORIC REVIEW

Corman submitted an historic report as required by the Surface Transportation Board's environmental rules [49 CFR 1105.8(a)] and served the report on the Kentucky Heritage Council (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). The SHPO has not completed its evaluation of the potential impact of this project on historic resources. Accordingly, we recommend that Corman shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONDITIONS

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) has identified 14 geodetic station markers that may be affected by the proposed abandonment. Therefore, Corman shall notify NGS at least 90 days prior to salvage activities in order to plan for their relocation.
2. Corman shall contact the United States Army Corps of Engineers (USACE), Huntington District, prior to the commencement of any salvage activities in order to determine whether a USACE permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would be required for the portion of the line located in United States Postal Service ZIP codes 41240, 41260, and 41222.
3. Based on the comments of the Kentucky Department of Natural Resources, Environmental and Public Protection Cabinet, Corman shall follow Best Management Practices during salvage activities to prevent erosion and nonpoint water pollution.
4. Corman shall retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way that are 50 years old or older until completion of the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f.

CONCLUSIONS

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean, who prepared this environmental assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-875X in all correspondence, including e-filings, addressed to the**

Board. If you have any questions regarding this environmental assessment, please contact Christa Dean, the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at deanc@stb.dot.gov.

Date made available to the public: November 5, 2004.

Comment due date: December 6, 2004.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

